THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT APPEAL NOs.257 of 2001 and 731 of 2002

1st September 2005

1. WRIT APPEAL NOs.257 of 2001

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 20.01.2001 in W.P.NO.144 OF 1998 on the file of the High Court.)

Between:

1. The Registrar, Osmania University, University Campus, Hyderabad and one other.

...APPELLANTS/RESPONDENTS

AND

1. The Secretary, University grants Commission, Bahadur Shah Jafar Marg, New Delhi and 7 others

...RESPONDENTS/PETITIONERS

2.WRIT APPEAL NO.731 of 2002

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 20.01.2001 in W.P.NO.144 OF 1998 on the file of the High Court.)

Between:

The Commissioner, Social Welfare Department, Government of A.P., Telugu Sankshema Bhavan, Maseb Tank, Hyderabad.

...APPELLANT/RESPONDENT

AND

1. N.K.Nanda Kumar and 6 others.

...RESPONDENTS/PETITIONERS

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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WRIT APPEAL NOs.257 of 2001 and 731 of 2002

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JUDGMENT: (Per the Hon'ble Mr Justice B.Prakash Rao)

Heard Sri Deepak Bhattacharjee, the learned Standing Counsel, the learned Government Pleader for Social Welfare and Sri B.G.Ravindera Reddy, the learned counsel appearing for the respondents.

In these two appeals, the challenge is against the order dated 20.01.2001 passed by the learned Single Judge allowing the Writ Petition No.144 of 1998. In the Writ Petition, the claim of the petitioners was against the illegal action of the appellants herein in continuing them on consolidated pay without regularizing their services. They sought to rest their claim *inter alia* on various allegations. Ultimately, when the Writ Petition has come up for final hearing before the learned Single Judge, apparently the appellants did not file counter-affidavit. Therefore, having accepted the version of the writ petitioners, *rule nisi* was issued.

The main ground urged on behalf of the appellants in these two appeals is that in fact no opportunity was given to them and even before the counter-affidavits could be filed, the writ Petition was taken up and disposed of. Further, even in regard to

the plea in G.O.Ms.No.212 dated 22.04.1994, it was also found not placed in the pleadings.

It is stated by the learned standing counsel appearing for the appellants in W.A.No.257 of 2001 that he has filed a counter-affidavit pointing out various objections as to why the writ petitioners were not entitled. However, it is also pointed out that the writ petitioners are no longer in service of the appellant-Coaching Centre and the question of regularizing them does not arise.

Be that as it may, the fact remains that the Writ Petition came to be allowed without any counter-affidavit on the appellant side. Basing on the version of the writ petitioners, the Writ Petition was allowed. In the circumstances, we feel that it would be in the interest of justice to file the counter-affidavit so that the matter can be disposed of on merits and also to decide as to whether the writ petitioners are still continuing in the service of the appellant.

Both the Writ Appeals are accordingly allowed. The order dated 20.01.2001 is set aside. No costs.

Office is directed to post the Writ Petition before the learned Single Judge hearing the matters.

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(B.PRAKASH RAO, J)

(DR G.YETHIRAJULU, J)

1st September 2005

RRB

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